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Fresno, California

June 13, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager
 Assistant City Manager Ruiz
 James Sanchez, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Minister Larry Norton of the Central Valley Mission Church of Scientology gave the invocation, and Assistant City Manager Ruiz led the Pledge of Allegiance.

PROCLAMATION OF "BANKING INDUSTRY WEEK" - COUNCILMEMBER WESTERLUND

RESOLUTION OF COMMENDATION TO FRANK ELLISON AND MIKE CARDONA OF THE SOLID WASTE DIVISION - MAYOR AUTRY AND CITY MANAGER SOUZA

PROCLAMATION OF "SHARON TITTLE DAY" MAYOR AUTRY AND COUNCILMEMBER CALHOUN

PROCLAMATION OF "CSUF SUMMER ARTS PROGRAM MONTH" - ACTING PRESIDENT PEREA

PROCLAMATION OF "JUNETEENTH DAY" - MAYOR AUTRY AND COUNCILMEMBER STERLING

The above proclamations and resolution were and presented.

APPROVE MINUTES OF JUNE 6 AND 7, 2006:

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of June 6 and 7, 2006, approved as submitted.

APPROVE JOINT POWERS FINANCING AUTHORITY MINUTES OF JUNE 6, 2007:

On motion of Member Boyajian, seconded by Member Duncan, duly carried, RESOLVED, the JPFA minutes of June 6, 2006, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Dages (1) questioned when the new fire sprinkler ordinance would be in effect (with City Attorney Sanchez stating the end of this month), and advised builder DR Horton was being mandated by the fire department to install sprinklers even though the ordinance was not in effect and infrastructure had already been installed by the builder, and stated he hoped the City Manager would put a stop to this anti-business approach, with Mr. Sanchez and Assistant City Manager Ruiz responding and stating staff would follow up; and (2) advised he received a call from a lady who lives on S. Orange Avenue who was given a \$70.00 inspection from the fire department on a four-Plex and was given no information when she called the department to inquire, and stated staff was rude to the lady and also to his office when they called and asked that staff be more congenial to people as this is public information and gave the lady's phone number to staff.

Councilmember Sterling thanked everyone for their patience these past few months as she ran her campaign and successful re-election and stated she looked forward to working with everyone for the next four years.

Councilmember Calhoun (1) apologized to the City Manager for his temperate remarks last evening and for getting a little provoked adding he shouldn't have, and stated the Diamond Street Project issue was still in his mind and advised and read the latest information his assistant found on the issue to further clarify where he was coming from; and (2) relative to zoning matters and street impact fees advised hundreds of new homes are continuing to be built without paying their fair share as the fees still have not come forth, questioned why this matter was taking so long, and stated starting today he would be asking developers if they would abide by the fees and apply them when they do come forward. Assistant City Manager Ruiz noted Council adopted an agreement wherein the street fees, when they are adopted, would be retroactively applied to tracts and stated he would provide details, with Councilmember Calhoun stating he was not aware of that and that would meet his criteria.

President Duncan advised today was Councilmember Westerlund's 40th birthday and wished him happy birthday.

APPROVE AGENDA:

(10:00 A.M. #1) CONTINUED HEARING ON REZONE APPLICATION NO. R-05-61 AND ENVIRONMENTAL FINDINGS FILED BY CENTEX HOMES ON BEHALF OF DAMRONG AND SOMLUCK PATTANUMOTANA AND AHMED KHALED, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF N. LOCAL AND E. SHIELDS AVENUES
(Applicant requests continuance to July 25, 2006, at 10:00 a.m.)

Continued as requested.

**(3:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY
 (ITEMS "A", "B" AND "C")**

Councilmember Sterling moved Item "A" to the last to have Items "B" and "C" heard first.

On motion of Westerlund, seconded by Acting President Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

ADOPT CONSENT CALENDAR:

President Duncan called forth Brenda Marrash as it was thought she wanted to speak to Item **1-R** relative to bicycle taxis, but she spoke to the new taxicab ordinance. Her comments are noted under "Public Comment - Unscheduled Communication".

Councilmember Boyajian pulled Item **1-L** from the Consent Calendar and registered a "NO" vote on Item **1-A**, and Councilmember Calhoun pulled Item **1-N** and Councilmember Westerlund pulled Item **1-P** from the consent calendar for later discussion/action.

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(1-B) RESOLUTION NO. 2006-205 - APPROVING THE FINAL MAP OF TRACT NO. 5409 AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN, NORTHWEST CORNER OF E. MCKINLEY AND N. WINERY AVENUES

1. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

(1-C) RESOLUTION NO. 2006-206 - APPROVING THE FINAL MAP OF TRACT NO. 5394 AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN, SOUTHEAST CORNER OF W. THOMAS AND N. WEBER AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

(1-D) APPROVE UP TO \$425,000 IN HOME PROGRAM FUNDS FOR AFFORDABLE HOUSING

1. CONSIDER AND APPROVE EA NO. 014-06051 DETERMINATION OF STATUTORY EXEMPTION

2. AUTHORIZE FUNDING OF UP TO \$425,000 IN HOME FUNDS FOR THE PURCHASE OF TWO BOARDED-UP SINGLE-FAMILY HOMES FOR THE REHABILITATION AND DEVELOPMENT OF AFFORDABLE HOUSING

3. APPROVE THE PURCHASE AND SALE AGREEMENTS FOR THE TWO PROPERTIES LOCATED ON ECHO AVENUE AND AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE AGREEMENT AND TAKE ALL ACTIONS NECESSARY TO ACCEPT THE CONVEYANCE AND CARRY OUT THE AGREEMENTS

(1-E) RESOLUTION NO. 2006-207 - INTENT TO ANNEX FINAL TRACT NO. 5377 TO CFD NO. 2, ANNEXATION NO. 124, AND SETTING THE PUBLIC HEARING FOR JULY 18, 2006

(1-F) RESOLUTION NO. 2006-208 -INTENT TO ANNEX FINAL TRACT NO. 5340 TO CFD NO. 2, ANNEXATION NO. 125, AND SETTING THE PUBLIC HEARING FOR JULY 18, 2006

(1-G) RESOLUTION NO. 2006-209 -INTENT TO ANNEX FINAL TRACT NO. 5477 TO CFD NO. 2, ANNEXATION NO. 126, AND SETTING THE PUBLIC HEARING FOR JULY 18, 2006

(1-H) RESOLUTION NO. 2006-210 -INTENT TO ANNEX FINAL TRACT NO. 5376 TO CFD NO. 2, ANNEXATION NO. 127, AND SETTING THE PUBLIC HEARING FOR JULY 18, 2006

(1-I) AUTHORIZE RENEWAL OF AN AGREEMENT BETWEEN THE HOUSING AUTHORITY THE AND POLICE DEPARTMENT FOR THE HUD CAPITAL FUNDING GRANT PROGRAM AND ADDITIONAL SECURITY AND PROTECTION SERVICES FOR PUBLIC HOUSING GRANT

1. **RESOLUTION NO. 2006-211** - 76TH AMENDMENT TO AAR 2005-285 APPROPRIATING \$33,300 TO FUND TWO CSOs WHICH WILL BE ASSIGNED TO PUBLIC HOUSING LOCATIONS IN SOUTHWEST AND CENTRAL FRESNO

(1-J) AWARD A CONTRACT FOR THE BASE BID PLUS ADD ALTERNATES 1-3 FOR ACOUSTICAL TREATMENT OF 37 HOMES AROUND THE FRESNO YOSEMITE INTERNATIONAL AIRPORT TO TRON CONSTRUCTION, INC., IN THE AMOUNT OF \$768,355

(1-K) AWARD A CONTRACT TO CONTRA CASTA ELECTRIC IN THE AMOUNT OF \$276,556 TO FURNISH AND INSTALL ELECTRICAL TO ACCOMMODATE NEW LIGHTING WITHIN THE SEATING ISLES AT THE SELLAND ARENA

(1-M) AWARD A CONTRACT IN THE AMOUNT OF \$179,135 TO CROWN CONTRACTING COMPANY, INC. FOR THE INSTALLATION OF A NEW TRAFFIC SIGNAL AT THE ASHLAN/CHESTNUT AVENUES INTERSECTION

(1-O) APPROVE AN AGREEMENT WITH SIM ARCHITECTS IN THE AMOUNT OF \$232,500 FOR THE PREPARATION OF PLANS, SPECIFICATIONS AND COST ESTIMATES FOR THE DICKEY YOUTH DEVELOPMENT CENTER

(1-Q) BILL FOR INTRODUCTION AMENDING THE SALES TAX ORDINANCE PURSUANT TO AN AGREEMENT WITH THE COUNTY OF FRESNO MOU

1. **BILL NO. B-76** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO LOCAL SALES AND USE TAXES

(1-R) BILL NO. B-71 - ORDINANCE NO. 2006-74 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO BICYCLE TAXIS

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled

CONSENT CALENDAR hereby adopted, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(1-A) RESOLUTION NO. 2006-204 - APPROVING THE FINAL MAP OF TRACT NO. 5270 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, E. COPPER AVENUE EAST OF THE N. MAPLE AVENUE ALIGNMENT

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR AND PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, **RESOLVED**, the above entitled **Item 1-A** hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : Boyajian
 Absent : None

(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATIONS:

Brenda Marrash spoke earlier to the new taxicab ordinance and fees and expressed concern with its' financial impact on cab companies.

Eric Wardwell, 467 N. San Pablo, stated although he was disabled/handicapped he has taken it upon himself to clean up his alley and area of town by obtaining paint from the solid waste division to paint over graffiti-marked dumpsters/cans **(2 - 0)**, and requested funding be allocated to solid waste to continue providing the paint as they have told him they can no longer afford to supply it, with Councilmember Sterling responding.

Speaking to and expressing concerns with the new taxicab ordinance, the twice a year inspections and accompanying inspection fees, and their inability to afford it were Javier Gomez, Kuldip Singh Jhutti, and Juan Gomez.

Speaking to a Petition in support of The Unitarian Universalist Church of Fresno's (UUCF) Resolution calling for the withdrawal of U.S. Troops from Iraq and requesting Council support the petition and/or adopt a resolution were: Stephen Sacks, UUCF; Scott Key, Ph.D., Fresno Pacific University instructor; Ruthann Evans, Wesley United Methodist Church; UUCF Minister Bryan Jessup, 3857 N. Angus; Vincent Lavery, 2004 S. Willow, Member of Peace Fresno and the Fresno Center for Non Violence; Ellie Bluestein, representing the Fresno branch of the Women's International League for Peace and Freedom; Lisa Solomon, President of Peace Fresno; and Mai Summer Vue, Chair of the Hmong -American Coalition for Human Rights Injustice and elementary school teacher, who also spoke to the need for safe, clean affordable housing.

(9:15 A.M. "A") AWARD A CONTRACT TO AMERICAN SEATING COMPANY FOR INSTALLATION OF CITY-SUPPLIED SEATS AT THE SELLAND ARENA BASED UPON COUNCIL SELECTION OF BID ALTERNATIVE "A" OR "B"

1. RESOLUTION NO. 2006-212 - Alternative "A" - AWARD A CONTRACT TO COMPLETE THE SEAT INSTALLATION IN 90 WORKING DAYS

2. RESOLUTION - Alternative "B" - AWARD A CONTRACT TO COMPLETE THE SEAT INSTALLATION IN 90 CALENDAR DAYS (NOT ADOPTED)

Design Services Manager Andersen gave an overview of the issue, all as contained in the staff report as submitted, and recommended Alternative "A" be adopted. A motion and second was made to approve staff's recommendation. Mr. Andersen responded briefly to questions of Councilmember Sterling and President Duncan relative to whether staff would be working nights and around events, and to the improved, wider seating.

On motion of Councilmember Boyajian, seconded by Councilmember Dages, duly carried, **RESOLVED**, the contract hereby

awarded to American Seating Company in the amount of \$767,685 and the above entitled Resolution No. 2006-212 hereby adopted, as recommended by staff, by the following vote:

147-211

6/13/06

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(9:15 A.M. "B") PRESENTATION OF THE NO NEIGHBORHOOD LEFT BEHIND EVALUATION COMMITTEE REPORT

Assistant City Manger Ruiz gave a PowerPoint presentation on the issue and the Evaluation Committee's report and recommendations, all as contained the staff report and reports/materials as submitted, and spoke to lessons learned **(3 - 0)** and staff's concurrence with most of the committee's recommendations and specifically to move forward as a public and private partnership.

Councilmember Sterling thanked the committee for a commendable job and for their recommendations, and presented questions and comments at length relative to the survey conducted, type of questions asked, where the survey was, the overall outcome and if there was still a desire outsource some projects, funding source for legal costs, the program's \$45 million not designated for legal costs/why that money was being used for same, the process and if there was criteria for contractors before being hired, why that process was not utilized/why these contractors were not held to the same city standards, the original plan to solely utilize city crews and how that would have prevented the problems/legal issues encountered, concern that needy areas will be compromised by program funds being used for legal fees, if there were still legal issues outstanding, City Attorney Sanchez clarifying problems would be corrected for the future by pre-designing work and providing the scope of work, if city crews will be allowed to participate first/if they will be allowed to construct the street work they are capable of, request staff ensure all contractors are reviewed/pre-qualified, request staff ensure District 3 projects are not compromised or funding does not go towards legal fees, if committee members would be retained/hope that members will stay on for at least one more year, request for the surveys, request for quarterly staff reports, and support for city crews doing the work first and then outsourcing. Committee member Kurt Madden of One by One Leadership, Mr. Ruiz and City Attorney Sanchez responded and clarified issues throughout.

A motion and second was made to accept the Committee's report.

Councilmember Boyajian spoke to the issue at length and/or elaborated on various concerns including the original plan for city crews only and his shock when the public/private partnership was proposed, continuity being lost when the private sector comes in, the private sector having no idea where the needs are, the Pave-Off being ill conceived, the Pave-Off resulting in the loss of money, continuity and communication, the change to public/private being done so quickly without doing everything that should have been done, city crews being capable/qualified to do all the work, and the private sector not knowing the aspects of public works. Councilmember Boyajian commended public works staff for all their work and for the eight years of working with him to solve his district's issues.

Councilmember Dages stated southeast Fresno has been left behind, he was disappointed nothing has been done, and all he has received were a lot of promises, and stated he hoped southeast Fresno would not be forgotten.

Acting President Perea thanked the committee for all their work and for taking on this high-charged issue, referencing the report stated a lot of the public/private partnerships mentioned were things that were already occurring and he felt the recommendations were somewhat re-affirming what both sides have been doing, challenged Mr. Ruiz' comment suggesting the framework in which Council should be looking at this issue and explained, read a quote from the Administration in the Fresno Bee on how the Pave-Off would be a competition to see who could do the work better, faster and cheaper and stated the assumption was someone would come out as a winner, and presented questions and comments at length relative to how many neighborhoods each group got, if city crews finished on time and before schedule, if the private crews finished on-time and before schedule, how many neighborhoods the privates finished, which crews were cheaper, who finished on, over or under budget, who the winner was in effectiveness and efficiency, when the program's framework changed/what led to the shift, everyone feeling this was a competition and looking forward to the results, concern with staff not saying at the end of the day who did the work faster/better/cheaper, inability to let staff get a free pass on this matter, how the change to public/private rubbed him the wrong way, concern that two years have gone by and a lot of the work has not been done or completed, and the program not being managed well and need to hold the Administration accountable for the mistake made, with Design Services Manager Andersen and Mr. Ruiz responding throughout. Acting President Perea stated he appreciated all the hard work that has been done and he looked forward to getting the rest done in hopefully four years.

Councilmember Westerlund also thanked the committee and presented questions and comments at length relative to project areas and level of engineering needed, if new construction was cheaper than re-construction (**4 - 0**), the issue of some neighborhoods requiring different levels of engineering and new construction or re-construction not being addressed, if the public sector or private sector was more capable of engineering services, if the committee reviewed the contractors' work, if the contractors received more engineering work, if a cost summary

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was available from the two private companies, if costs could have been asked for and included in their contracts, need to update overhead rates, amount of work done currently by city crews on the 7-week program, amount done in preceding years, if there have been increases in the level of work, number of crews for the 7-week and NNLB programs, number of city crews that would be needed to do all the NNLB work, if additional staff would have to be hired to accelerate the work, concern with hiring additional staff and then handing out pink slips when the work heads back down, meaning of the recommendation to "not bundle any more" , and if staff felt all 71 neighborhoods would get done, with Committee member Biltcomb from the Fresno State School of Engineering, Mr. Ruiz and Streets Manager Adams responding throughout.

President Duncan thanked the committee stating they were an extraordinary group of people and stated the results of the report should be celebrated, and stated it was incumbent upon the City to give the best to the taxpayer, he respected Mr. Moore's involvement, and the work needed to get gone in the most efficient manner and the road map was there.

On motion of Councilmember Sterling, seconded by President Duncan, duly carried, RESOLVED, the No Neighborhood Left Behind Evaluation Committee Report hereby accepted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(10:00 A.M. #2) CONTINUED HEARING ON CFD NO. 11, ANNEXATION NO. 7, FINAL TRACT MAP NO. 5406

1. RESOLUTION NO. 2006-213 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX

2. RESOLUTION NO. 2006-214 - CALLING A SPECIAL MAILED-BALLOT ELECTION

3. RESOLUTION NO. 2006-215 - DECLARING ELECTION RESULTS

4. BILL NO. B-77 - ORDINANCE NO. 2006-75 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-2007 AND FUTURE TAX YEARS

5. RESOLUTION NO. 2006-216 - APPROVING THE FINAL MAP AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR, PUBLIC UTILITIES DIRECTOR AND THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant Public Works Director Kirn advised the staff report as submitted was complete and added LAFCO proceedings had been finalized and the matter was ready for action. Upon further question Mr. Kirn stated CFD #11 did not include road maintenance fees.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Mr. Kirn responded to questions of Councilmember Boyajian relative to when the road maintenance fee issue would be coming forth with Councilmember Boyajian stating he hope that could be done expeditiously.

On motion of Councilmember Boyajian, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-213, 2006-214, 2006-215 and 2006-216 hereby adopted, and the above entitled Bill No. B-77 adopted as Ordinance No. 2006-75, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(10:15 A.M.) HEARING TO CONSIDER PUBLIC USE AND NECESSITY FOR THE ACQUISITION OF A STREET EASEMENT

AND A TEMPORARY CONSTRUCTION EASEMENT FROM PROPERTY OWNED BY ANDY CHHIKARA AT THE SOUTHEAST CORNER OF CLINTON AND WEST AVENUES

1. RESOLUTION NO. 2006-217 - DETERMINING THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION FOR THE WIDENING OF THE CLINTON AND WEST AVENUES INTERSECTION, AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PURPOSE

President Duncan announced the time had arrived to consider the issue and opened the hearing.

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Supervising Real Estate Agent Balch gave an in-depth overview of the issue, all as contained in the staff report as submitted, clarified at issue was the property owner's position that the valuation should be based on the service station but noted the gasoline tanks had been removed from the site and the business was no longer a service station, and stated staff would continue to work with the property owner to try to resolve the issue and recommended the resolution be adopted.

Property owner Andy Chhikara, 2340 N. West Avenue, stated the property had been a gas station for over 30 years, a new State law required the tanks to be replaced and the replacement time took longer than one year, and the City's project affected his plans and explained, and stated if his property is taken he would not be able to put in the tanks and use the property as a gas station as intended and there would no longer be the convenience for his patrons and explained.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Mr. Balch, Traffic Engineer Manager Mozier, Mr. Chhikara and Assistant Public Works Director Kirn responded to questions of Councilmember Boyajian relative to why this property was being taken when there were opportunities across the street, the left-turn lane plans, if it was necessary to take this land, if accidents have occurred at the intersection, price offered for the easement, if taking the property would impact the store operation, if the business was not being used as a gas station at this time, and if staff felt the taking would hinder the store operation.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-217 hereby adopted by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Sterling, Westerlund, Duncan
Noes :	Perea
Absent :	None

(10:30 A.M.) HEARING TO CONSIDER PUBLIC USE AND NECESSITY FOR THE ACQUISITION OF A STREET EASEMENT FROM PROPERTY OWNED BY GRANETT INVESTMENT TRUST ON THE EAST SIDE OF "O" STREET SOUTH OF VENTURA, AND FEE TITLE TO A STREET RIGHT OF WAY FROM PROPERTY OWNED BY GARANETT INVESTMENT TRUST AT THE FREEWAY 41 OFF RAMP AT "O" STREET

1. RESOLUTION NO. 2006-218 - DETERMINING THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITIONS FOR THE RECONSTRUCTION OF THE FREEWAY OFF RAMP AND WIDENING OF "O" STREET, AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PURPOSE

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Supervising Real Estate Agent Balch clarified APN 468-192-30 was to be acquired in fee and the other parcel was an easement, and gave an in-depth overview of the issue, all as contained in the staff report as submitted, and recommended approval. Upon question of President Duncan, Mr. Balch confirmed the property owner was requesting \$25,000 for a 4 square foot area and \$350,000 for a 300 square foot area.

Property owner Art Terzian spoke in opposition to the acquisition stating he needed the property as he was planning to construct a high-rise in two years and elaborated further on his concerns.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Traffic Engineering Manager Mozier provided additional background information and spoke further to the project, and along with

Mr. Balch responded to questions of Councilmember Sterling relative to ADA requirements **(5 - 0)**, if staff felt the taking would prohibit Mr. Terzian from building his high-rise, if staff discussed that issue with Mr. Terzian, if Mr. Terzian would be required to make the street improvements to meet ADA requirements when he constructs his high-rise, what additional work Mr. Terzian would have to do if he builds his high-rise after the City's project, how staff arrived at the prices offered, if discussions have occurred with Mr. Terzian on his asking price, and if \$350,000 for the 330 square foot area was excessive. A motion and second was made to approve staff's recommendation. Councilmember Dages noted the \$350,000 for the 330 square feet was \$10 per square foot less than what Council paid for Ophelia property.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2006-218 hereby adopted, by the following vote:

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Ayes : Boyajian, Calhoun, Sterling, Westerlund, Duncan
 Noes : Dages, Perea
 Absent : None

(10:40 A.M.) CONTINUED HEARING ON CFD NO. 11, ANNEXATION NO. 3, TRACT MAP NO. 5352

1. RESOLUTION NO. 2006-219 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX

2. RESOLUTION NO. 2006-220 - CALLING A SPECIAL MAILED-BALLOT ELECTION

3. RESOLUTION NO. 2006-221 - DECLARING ELECTION RESULTS

4. BILL NO. B-78- ORDINANCE NO. 2006-76 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2006-2007 AND FUTURE TAX YEARS

5. RESOLUTION NO. 2006-222 - APPROVING THE FINAL MAP OF TRACT NO. 5352 AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR, PUBLIC UTILITIES DIRECTOR, FIRE CHIEF AND THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE NECESSARY DOCUMENTS

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant Public Works Director Kirn stated the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Calhoun, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution Nos. 2006-219, 2006-220, 2006-221 and 2006-222 hereby adopted, and the above entitled Bill No. B-78 adopted as Ordinance No. 2006-76, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(10:45 A.M.) HEARING TO CONSIDER PUBLIC USE AND NECESSITY FOR THE ACQUISITION OF STREET EASEMENTS FROM PROPERTY OWNED BY UNION PACIFIC RAILROAD AT THE NORTHEAST CORNER OF CLOVIS AND OLIVE AVENUES, PROPERTY OWNED BY ROBERT PAPA ZIAN AT THE SOUTHWEST CORNER OF CLOVIS AND OLIVE AVENUES, AND PROPERTY OWNED BY CENTRAL CINEMA LP ON THE WEST SIDE OF CLOVIS AVENUE SOUTH OF FANCHER CREEK

1. RESOLUTION NO. 2006-223 - DETERMINING THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITIONS FOR THE CONSTRUCTION OF IMPROVEMENTS TO CLOVIS AVENUE BETWEEN KINGS CANYON BOULEVARD AND MCKINLEY AVENUE, AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PURPOSE

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Supervising Real Estate Agent Balch advised of two corrections: (1) the Union Pacific parcel was dropped and that part would be coming back next week, and (2) compensation on the second parcel was \$1,180 and not \$1,080, and gave an in-depth overview of the issue, all as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Duncan closed the hearing.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2006-223 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

LUNCH RECESS - 11:58 A.M. - 2:00 P.M.

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(11:00 A.M.) HEARING TO CONSIDER REZONE APPLICATION NO. R-05-81 AND THE APPEAL OF E.A. NO. R-05-81/C-05-216, FINDING OF A MITIGATED NEGATIVE DECLARATION PURSUANT TO CEQA GUIDELINES, FILED BY DEWAYNE ZINKIN, PROPERTY LOCATED BETWEEN N. FRESNO STREET, N. FRIANT ROAD, E. AUDUBON DRIVE AND E. COLE AVENUE - FRESNO 40 PROJECT

1. RESOLUTION - DENYING THE APPEAL OF THE PLANNING COMMISSION'S DECISION ON THE E.A. AND ADOPTING THE MITIGATED NEGATIVE DECLARATION

2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-P/UGM/cz, C-P/UGM/cz, AND C-2/UGM/cz TO R-P/UGM/cz, C-P/UGM/cz AND C-2/UGM/cz TO CHANGE A CONDITION OF ZONING TO ALLOW FOR A SECOND POINT OF ACCESS FROM THE SUBJECT PROPERTY TO FRIANT ROAD

President Duncan advised he received a request to continue the hearing one week so that additional information could be entered into the record and upon question advised the applicant was in agreement.

On motion of President Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the 11:00 a.m. Hearing on R-05-81 and the appeal of the E.A. continued to June 20, 2006, at 9:30 a.m., by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR ITEMS FROM JUNE 6, 2006

("A") AWARD A CONTRACT TO FLOYD JOHNSTON CONSTRUCTION, INC., FOR THE INSTALLATION OF 14" WATER MAIN, 8" SEWER MAIN AND STORM DRAIN FACILITIES ON BELMONT AVENUE BETWEEN MARKS AND VALENTINE AVENUES

Design Services Manager Andersen responded to questions of Councilmember Boyajian relative to why there was no sewer main in the area, if the main would end at this point, why the City was paying for this project and not development, and what developments were in the area.

On motion of Councilmember Boyajian, seconded by Acting President Perea, duly carried, RESOLVED, a contract for the Base Bid and Add Alternate 2 in the amount of \$404,199 hereby awarded to Floyd Johnston Construction, Inc., by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 noes : None
 Absent : None

("B") APPROVE AN AMENDMENT TO THE AGREEMENT WITH BLAIR, CHURCH & FLYNN CONSULTING ENGINEERS FOR THE PREPARATION OF WORK PLANS FOR NO NEIGHBORHOOD LEFT BEHIND YEAR 3 PROJECTS

Design Services Manager Andersen responded to questions of Councilmember Boyajian relative to whether costs were included in the bond or if this was new money, why changes were being made at this point, and how many projects would be constructed.

On motion of Councilmember Boyajian, seconded by Acting President Perea, duly carried, RESOLVED, the amendment to the agreement with Blair, Church & Flynn in the amount of \$493,500 hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 noes : None
 Absent : None

("C") RESOLUTION NO. 2006-224 - INTENT TO ANNEX FINAL TRACT NO. 5169 AS ANNEXATION NO. 122 TO CFD NO. 2, AUTHORIZE THE LEVY OF SPECIAL TAXES, AND SETTING THE PUBLIC HEARING FOR JULY 18, 2006

A motion and second was made to adopt the resolution and there was no discussion.

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On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-224 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 noes : None
 Absent : None

("D") BILL NO. B-79 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO CARD ROOM EMPLOYEES OR POTENTIAL EMPLOYEES

Councilmember Boyajian stated he had a problem with a person potentially being prevented from getting a job for generally "engaging in criminal conduct" citing hearsay, lack of a conviction, and it possibly being a case of being in the wrong place at the wrong time. City Attorney Sanchez spoke to the gaming industry and to the greater levels of regulation, clarified it was up to Council if they wanted this level of protection, and advised police staff was present to share their concern and why they were requesting this amendment. Councilmember Boyajian stated as an attorney he has reviewed many police reports and a lot of the information is hearsay and does not relate to the person, and upon further comments and questions Police Lt. Bennink spoke to the investigations the department conducts, clarified issues, and confirmed the department would be the judge of police reports. Councilmember Boyajian stated due process issues were big, he was looking at the nuts and bolts of this, conviction and engaging in activity was a difficult jump for him, and stated he missed the moral turpitude part and that helped but he still had concerns and explained.

A motion and second was made to introduce the ordinance bill.

President Duncan stated he agreed with Councilmember Boyajian and added to deny a person a job for something not proven was the wrong way of handling a matter.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. B-79 introduced before the City Council and laid over, by the following vote:

Ayes : Calhoun Dages, Perea, Sterling, Westerlund
 Noes : Boyajian, Duncan
 Absent : None

("E") BILL - AMENDING THE FRESNO MUNICIPAL CODE REQUIRING INDUSTRIAL, COMMERCIAL AND MULTI-FAMILY PROPERTIES TO REMOVE GRAFFITI WITHIN 24 HOURS OF ITS APPEARANCE

Councilmember Dages stated the last time a change was made (trash containers in view) staff went out with a citation book rather than a rule book and questioned if the same would occur here, with City Manager Souza clarifying staff did not go out with a citation book and acknowledged the rule book could have been better worded and added having learned that lesson staff would go out with a better rule book. Councilmember Dages stated he has used the existing ordinance for 12 years and never experienced a problem and presented questions and comments relative to whether any businesses were contacted/notified of this ordinance, the Chamber of Commerce's support but the Chamber only representing 1,900 businesses and the city alone having 26,000 business licenses, if staff will be able to enforce in 24 hours, what problems occurred that resulted in this change, if the City will police their own buildings, his concern with imposing restrictions on businesses without notification, 24 hours being a strict time line and possibly being not enough time in some cases,

businesses doing a great job in the past handling their graffiti problems, and hope that staff will treat businesses with courtesy and dignity, with Mr. Souza and Assistant City Manager Rudd responding throughout. A motion and second was made to introduce the ordinance bill.

Extensive discussion continued with Mr. Rudd and City Attorney Sanchez responding to questions and/or comments of Councilmembers Westerlund, Dages, Boyajian and President Duncan relative to what the current ordinance/time line was, how the process will work/if businesses will still be able to call in, this change making sense for those businesses that leave their places trashed, if staff would be under planning & development or the police department, total number of positions involved, if notices could be sent out to businesses with their business license renewal, if businesses were given an opportunity to provide input, what outreach efforts were made, need to involve the small businesses that do not belong to the Chamber of Commerce, different issues being involved and the matter possibly not being thought through, concern with rushing to judgment, if the business owner or property owner would be the responsible party, who would be responsible for graffiti on strip mall stores, how property owner/business owner differences will be determined, what the expectation was of property owners being notified of graffiti, how long the search for a property owner would take/who will do the search, President Duncan stating he did not feel this would work and will make graffiti worse in the city than better and explained, the current program working very well, this ordinance resulting

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in a shift of fines to small businesses, why the two additional positions are not used boost graffiti removal services, **(6 - 0)** the intent being good but this program not being thought through, if there was an expectation on what kind of reduction is expected, if there were any measurable outcomes, this change opening up a can of worms, acid etchings and how that will be dealt with, if there was a way to assist businesses with acid markings, if any research has been conducted under the 48 hour rule, if there were any statistics on enforcement under the current code, there being a need to move cautiously after hearing comments and concerns, and desire to hold off on this matter to conduct outreach, talk with businesses, and look at the issue in more detail. Upon question of Councilmember Calhoun Mr. Sanchez confirmed a delay would not impact the budget.

On motion of Councilmember Westerlund, seconded by President Duncan, duly carried, RESOLVED, the matter tabled to July 18, 2006, to conduct outreach, talk with businesses, and look at the issue in more detail, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

Councilmember Boyajian suggested staff look at a way of addressing the problem globally and spoke briefly to his past efforts with the County.

(2:00 P.M. #2) CONTESTED CONSENT CALENDAR:

(1-L) AWARD A CONTRACT IN THE AMOUNT OF \$2,037,950 TO SPINIELLO COMPANIES TO CONSTRUCT CURED IN PLACE PIPE (CIPP) LINER FOR HERNDON AVENUE INTERCEPTOR CAPACITY ENHANCEMENTS PHASE 3

Interim Design Services Manager Krauter responded to questions and concerns of Councilmember Boyajian relative to why development in its natural course could not pay for this, if this was a replacement of something, if staff did not know the line might need more capacity with all the development going on in Herndon, and if the City had to take the entire responsibility for the costs. Councilmember Boyajian stated his concerns were the City always getting stuck with these huge costs, development not paying its fair share, and things being done piecemeal.

On motion of Councilmember Boyajian, seconded by Councilmember Westerlund, duly carried. RESOLVED, the contract as outlined above hereby awarded as recommended, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(1-N) AWARD A CONTRACT TO AMERICAN PAVING CO. IN THE AMOUNT OF \$942,578 TO CONSTRUCT INTERSECTION IMPROVEMENTS AT SHAW AVENUE AND FIRST STREET

Councilmember Calhoun noted only one proposal was received at 10% over the estimate and stated it was excessive and the

project needed to be rebid. A motion of Councilmember Calhoun to deny the award and direct staff to rebid the project died due to lack of a second.

A motion and second was made to award the contract as recommended. Upon question of Councilmember Calhoun Public Works Director Healey explained staff was very concerned about this intersection, construction costs were increasing rapidly, and staff wanted to complete the improvements as a delay may result in costs exceeding this. Councilmember Calhoun stated he disagreed with that thinking and stated anything this excessive needed to be rejected.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the contract as outlined above hereby awarded as recommended, by the following vote:

Ayes :	Boyajian, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	Calhoun
Absent :	None

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(1-P) APPROVE THE FIRST AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS, P.C., FOR DESIGN OF IMPROVEMENTS TO THE ORGANIC TREATMENT PROCESS AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY

Interim Public Utilities Director Ramirez responded to questions of Councilmember Westerlund relative to whether the scope of work was being revised, if this project was currently out to bid, if office construction engineering was not part of the original \$4 million contract, if Carollo was not being double paid, and the funding source.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the first amendment to the agreement in the amount of \$1,164,264 for professional engineering services related to the Organic Upgrade Project at the Fresno-Clovis Regional Wastewater Reclamation Facility hereby approved, and the City Manager or designee authorized to execute the agreement, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(2:30 P.M.) HEARING ON REZONE APPLICATION NO. R-05-112 AND ENVIRONMENTAL FINDINGS FILED BY CENTEX HOMES ON BEHALF OF SIMONIAN FAMILY TRUST, GARY AND ELAINE SIMONIAN, AND PARGA PARTNERS LIMITED PARTNERSHIP, PROPERTY LOCATED ON THE NORTHWEST CORNER OF S. ARMSTRONG AND E. CHURCH AVENUES
1. CONSIDER AND ADOPT E.A. NO. R-05-112/T-5638/C-05-291, DATED APRIL 13, 2006, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-80 - ORDINANCE NO. 2006-77 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AL-20 TO R-1/UGM FOR 61 ACRES AND R-2/UGM FOR 16 ACRES

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Rodriguez stated the staff report as submitted was complete and there was no new information to add.

Dennis Gaab, Centex Homes, requested approval.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

A motion and second was made to approve staff's recommendation.

Councilmember Calhoun noted an agreement was approved in February wherein the street fees, when they are adopted, would be retroactively applied to tracts, and upon his question Planning Manager Haro spoke to the fee update that was adopted and in place and confirmed it would apply to this tract map, to the fee update he referred to as "Super UGM" and explained how that would work, and clarified only an updated existing fee could be imposed on this project but not a new fee. Councilmember Calhoun presented additional questions relative to when the fees would be coming forth, if a Caltrans fee would be assessed on this project, developers' understanding they will pay the updated fees and why that reasoning could not be applied to the eminent super fee, and how map act fees are applied, with Public Works Healey responding throughout and along with Assistant Director Kirn clarifying any entitlements filed after 2/14/06 would

be subject to whatever the fees end up being. Upon further questions, City Attorney Sanchez stated it would be legal if a developer filing after February 14th wished to voluntarily pay the additional fee, and Mr. Gaab advised of the fees they already voluntarily agreed to pay on this project and several other projects and stated without the rules and framework on the major street fee issue he could not voluntarily agree to pay. Upon further question Mr. Healey stated the draft fees would be submitted to the attorney's office this week whereupon Councilmember Calhoun asked if the developer would be willing to delay action one to two weeks to see what staff brings forth. After a brief consultation with staff Mr. Gaab committed to the payment. Upon further question of Councilmember Calhoun Mr. Sanchez stated engaging in negotiations at this point and on the dais presented some difficulties, stated staff may want to conduct a workshop to lay out both legal issues and approaches that might satisfy Council's concerns, clarified legally Council could proceed with the agreed to condition but he was only flagging a concern of engaging in negotiations here and at this stage, stated his preference was that he be allowed to provide a big picture of the legal requirements for future projects, clarified issues relative to Council stepping over the line of legal conditions that can be imposed and being unable to impose a condition without legitimate health and safety findings, and upon question stated he could provide that information in one week. Councilmember Calhoun stated he would rather not have to rush to judgment, acknowledged he was springing this on the developer but it was something he had been thinking about for awhile, and stated he would like a one week continuance so everyone involved could think about this.

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It was noted a motion was already on the floor and Councilmember Boyajian stated he would support a continuance.

Councilmember Dages stated it was inappropriate to hold any project hostage until some kind of economic transaction is negotiated and added that did not sound legal to him, noted processes were followed and staff brought this project forth and now a fee that is not even in place yet was being negotiated, stated if Centex wanted to do pay that was their business but his position was he would not hold any development hostage while negotiations are occurring up on the dais and he would never support what was now going on, clarified the appropriate processes would be followed with the fee and Council could go forward from that point, and stated to impose a fee now was wrong and he would stay with his motion.

Councilmember Westerlund concurred, stated he was very uncomfortable with this and felt the council member proposing this got very close to the line on duress for the developer, added conducting negotiations at this point made him very uncomfortable, and stated he would like to see a legal opinion as he could see litigation happening and the City being on the losing end due to a request for voluntary payment on a fee that is not in place.

A motion of Councilmember Calhoun, seconded by Councilmember Boyajian, to table the matter one week failed, by the following vote:

Ayes :	Boyajian, Calhoun
Noes :	Dages, Perea, Sterling, Westerlund, Duncan
Absent :	None

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the environmental for the E.A. hereby approved, and the above entitled Bill No. B-80 rezoning the property adopted as Ordinance No. 2006-77, by the following vote:

Ayes :	Dages, Perea, Sterling, Westerlund, Duncan
Noes :	Boyajian, Calhoun
Absent :	None

(2:45 P.M.) HEARING ON REZONE APPLICATION NO. R-05-74, CONDITIONAL USE PERMIT APPLICATION NO. C-05-203, AND ENVIRONMENTAL FINDINGS FILED BY RON MAZZEO AND ASSOCIATES ON BEHALF OF DEWAYNE ZINKIN, PROPERTY LOCATED ON THE WEST SIDE OF RIVER PARK PLACE BETWEEN E. AUDUBON DRIVE AND N. FRESNO STREET ADJACENT TO STATE ROUTE 41

1. CONSIDER AND ADOPT E.A. NO. R-05-74/C-05-203, DATED MAY 11, 2006, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. RESOLUTION NO. 2006-225 - APPROVING CUP NO. C-05-203, AS AMENDED, DELETING THE PLANNING COMMISSION CONDITION FOR BIKE RACKS, LOCKERS AND SHOWERS

3. BILL NO. B-81 - ORDINANCE NO. 2006-78 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM C-M/UGM/cz TO

C-M/UGM/cz TO MODIFY THE CONDITION OF ZONING TO INCREASE THE BUILDING HEIGHT LIMITATION FROM A 4-STORY 50-FOOT BUILDING HEIGHT TO A 6-STORY 98-FOOT BUILDING HEIGHT,

(7 - 0) Planner Pagoulatos gave an in-depth PowerPoint presentation on the project, all as contained in the staff report as submitted, and recommended approval.

Applicant DeWayne Zinkin stated he had been planning this project since 1985 and spoke further to the project, and advised he was opposed to the planning commission condition for a multitude of reasons including safety and privacy and explained.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

President Duncan stated this was a great project and a good example of building up and not out, advised his only challenge was the condition added by the planning commission stating to place mandates/requirements on public buildings was unwise and inappropriate, and made a motion to approve the staff's recommendation excluding the planning commission's condition for bike racks, lockers and showers, which motion was seconded and later acted upon.

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Councilmember Boyajian spoke to the issue, expressed concerns, and presented questions relative to the initial environmental assessment, if there were any other 6-story buildings in the area or being planned, this being across from the Fresno 40 Project and cumulative impacts not being looked at, traffic impacts/traffic studies/traffic study interpretation, the finding of no significant impacts being hard to believe, and this being a dagger to the downtown area, with Ms. Pagoulatos and Georgianna Vivien of VRPA Technologies responding throughout.

Councilmember Calhoun stated he agreed with most of Councilmember Boyajian's comments, stated this area was getting more and more crowded and this project should have had the highest degree of mitigation measures, noted Fresno 40 was another big project coming to the area and stated getting to and from places as the area builds out was the issue, and stated the bar was not set high enough and he would not support this.

Councilmember Westerlund stated he did not see growth in the Friant area as a dagger to downtown or to what was going on downtown and explained, stated Fresno has gotten to the size and capacity to be able to have more than one center of activity and further explained, and presented questions relative to the traffic study, definition of the "F" category, AM/PM peak hours, trip numbers and cap, Audubon exits, why Audubon exits were not studied, signalization, time frame for future build out, if development would occur closer to Friant or Audubon, and reasons for objection to the planning commission's condition, with Ms. Vivien, an unidentified traffic staff member, and Mr. Zinkin responding throughout.

On motion of President Duncan, seconded by Acting President Perea, duly carried, **RESOLVED**, the environmental finding for the E.A. hereby approved, the above entitled Resolution No. 2006-225 hereby adopted, *as amended, deleting the planning commission's condition to provide ten bike racks, ten bike lockers, and showers*; and the above entitled Bill No. B-81 adopted as Ordinance No. 2006-78, by the following vote:

Ayes :	Dages, Perea, Sterling, Westerlund, Duncan
Noes :	Boyajian, Calhoun
Absent :	None

(3:00 P.M.) CONTINUED HEARING ON REZONE APPLICATION NO. R-05-63 AND ENVIRONMENTAL FINDINGS FILED BY GEORGE GOODDARD, PROPERTY LOCATED ON THE SOUTH SIDE OF E. POWERS BETWEEN N. CEDAR AND N. MAPLE AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-63/C-06-19/T-5564, DATED MARCH 30, 2006, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-82 - ORDINANCE NO. 2006-79 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20/UGM TO R-1-C/UGM/cz

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Tackett noted this matter was continued from June 6th to afford President Duncan the opportunity to consider neighborhood concerns,

advised staff and President Duncan met thereafter and the result was conditions of zoning were included which are outlined in the staff report, and further advised a traffic calming measure was required by the planning commission and their resolution was attached to the staff report.

(8 - 0) Applicant representative Lawrence Smith, Harvard and Associates Engineering, requested approval.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

President Duncan thanked Mr. Tackett for his help and Mr. Goddard for his willingness to work with neighborhoods, stated this was not a big project but was in an area where development would ultimately occur around it, and stated this was a good cooperative process and made a motion to approve staff's recommendation.

On motion of President Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the environmental finding of the E.A. hereby approved; and the above entitled Bill No. B-82 adopted as Ordinance No. 2006-79, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

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RECESS - 4:19 P.M. - 4:27 P.M.

(3:15 P.M.) CITY OF FRESNO COGNOS DEMONSTRATION

The PowerPoint demonstration was conducted by Assistant City Manager Rudd, and upon question of President Duncan Mr. Rudd stated Council would be able to have their own dash boards tomorrow. City Manager Souza added there was so much information and the key was going to be focusing on key data, what the key points/data were, and what the key analysis and trend was, and stated he looked forward to getting everyone set up and thanked Mr. Rudd and staff.

(2-A) DIRECTION TO CITY MANAGER TO HAVE STAFF PRESENT FINDINGS AND RECOMMENDATIONS OF THE DEPARTMENT OF PUBLIC UTILITIES CONSULTANT'S RATES STUDIES TO INCLUDE PROJECTED IMPACT TO SERVICE LEVELS IF CURRENT RATE STRUCTURE IS NOT ADJUSTED IN FY 2007 - COUNCILMEMBER CALHOUN

Councilmember Calhoun read his report to Council as submitted into the record and requested staff's response.

Interim Public Utilities Director Ramirez submitted written material to Council; gave a PowerPoint presentation on the issue, the rate study process and the reports which included major assumptions used, proposed monthly residential utility rates, proposed residential utility rate increase, the utility rates being the lowest in the area, fees not keeping pace with inflation, 2007 budget/operating revenue, the utility rate commission to be established and its objective, and requirements of Proposition 218 and what it calls for; and responded to the questions included in Councilmember Calhoun's report.

City Manager Souza responded to questions of Councilmember Calhoun relative to bonds and what impact this will have on the City's bonding capacity, and Councilmember Calhoun commented further on the issue and recommended the department's budget not be adopted until a plan and timeline is in place that will effectively address the shortfalls outlined in the studies, stated he had concerns with the utility rate commission approach and added if there is a commission it should be approved by Council with goals defined ASAP with assurance the commission will be date-specific and adhere to a tight time line with staff keeping pace with that time line, and stated alternatives were needed soon on how to stabilize the current rate structure and asked the City Manager provide specific recommendations to Council, the public and the media during budget deliberations on where the City is going with a date specific time so Council can then vote on a rate structure.

Councilmember Boyajian stated the consultants should be brought in for a workshop to advise what can and can't be done **(9 - 0)** and questioned why a commission was going to be established when the City already had the experts who could give advice and respond to the hard questions. President Duncan added a commission would give credibility to a recommended rate increase because it

would be coming from the public (with Mr. Souza responding), and presented questions relative to Proposition 218 and the process for public involvement, with City Attorney Sanchez responding. President Duncan expressed his concerns stating the data was so clear, he was disappointed the reserve was all gone in one year, and stressed this was a crisis and elaborated. Councilmember Boyajian spoke additionally to the commission and expressed concern and questioned how independent information could be given when commissions are staffed by city staff, and stressed incremental increases should have started years ago and elaborated. Responding to assertions made Mr. Souza stated to somehow lay on the lap of the Mayor that he single-handedly chose to not raise rates was a disservice to the Mayor and the entire process. There was no further discussion.

(3:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 5:24 p.m. and convened in joint session with the Redevelopment.

APPROVE AGENCY MINUTES OF JUNE 6, 2006

On motion of Councilmember Westerlund, seconded by President Duncan, duly carried, RESOLVED, the Agency minutes of June 6, 2006, approved as submitted.

Councilmember Calhoun left the meeting at 5:25 p.m. and was absent for the remainder of the meeting.

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("B") AGENCY RESOLUTION NO. 1680 - ADOPTING THE MITIGATED NEGATIVE DECLARATION AND APPROVING THE ACQUISITION OF A VACANT PARCEL OF LAND FROM JACK AND ANNA SIRABIAN AND THE PURCHASE OF TWO VACANT PARCELS FROM ASHLEY PICKARD FOR THE FULTON PARK PLAZA PROJECT (AGENCY ACTION)

Supervising Real Estate Agent Balch reviewed the issue as contained in the staff report as submitted and recommended approval.

On motion of Member Dages, seconded by Member Perea, duly carried, RESOLVED, the above entitled Agency Resolution No. 1680 hereby adopted, and the Executive Director authorized to sign the purchase and sale agreements and grant deeds and take all actions necessary to complete the acquisitions, by the following vote:

Ayes :	Boyajian, Dages, Duncan, Perea, Westerlund, Sterling
Noes :	None
Absent :	Calhoun

Chair Sterling advised she knew the participants and the project in itself and stated it was a great project.

("C") APPROVE SUBSTITUTION OF SUBCONTRACTOR FOR THE INSTALLATION OF STREET LIGHTS FOR THE KINGS CANYON, MAPLE TO WILLOW STREET LIGHT PROJECT (AGENCY ACTION)

Executive Director Murphey reviewed the issue as contained in the staff report as submitted and recommended approval.

On motion of Member Dages, seconded by Member Duncan, duly carried, RESOLVED, the request from Crown Contracting Company, Inc. to substitute Pro-line Excavation with Crown Contracting for the underground boring portion of the project hereby approved, by the following vote:

Ayes :	Boyajian, Dages, Duncan, Perea, Westerlund, Sterling
Noes :	None
Absent :	Calhoun

("A") APPROVE A PURCHASE AND SALE AGREEMENT FOR PROPERTY AT 133 E. GEARY IN THE HOPE VI AREA AND AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE THE AGREEMENT AND TAKE ALL ACTIONS NECESSARY TO ACCEPT CONVEYANCE AND CARRY OUT THE AGREEMENT (AGENCY ACTION)

Chair Sterling advised her family had property interest in the area and recused herself from the proceedings and left the meeting at 5:31 p.m.

Senior Real Estate Agent Hansen reviewed the issue as contained in the staff report as submitted and recommended approval.

On motion of Member Duncan, seconded by Member Westerlund, duly carried, RESOLVED, the acquisition of a single-family residence at 133 E. Geary owned by Jaime Rivera for \$165,500 hereby approved, and the Executive Director authorized to execute all documents pertaining to the transaction, by the following vote:

Ayes : Dages, Duncan, Perea, Westerlund, Boyajian
 Noes : None
 Absent : Calhoun
 Recused : Sterling

(2:00 P.M. #3) CLOSED SESSION:

("A") CONFERENCE WITH LEGAL COUNSEL/DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: COF V. ROBERT SCHOETTLER, ET AL.

("B") CONFERENCE WITH LEGAL COUNSEL/ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAME: COF V. M.J. MENELEE CONSTRUCTION INC., GREAT AMERICAN INSURANCE COMPANY

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("C") CONFERENCE WITH LABOR NEGOTIATOR:

MOU NEGOTIATION UPDATES ON THE FOLLOWING UNITS:

1. UNIT 04, NON-SUPERVISORY POLICE, REPRESENTED BY FPOA
2. UNIT 06, BUS DRIVERS, REPRESENTED BY ATU LOCAL 1027
3. UNIT 13, NON-MANAGEMENT CONFIDENTIAL AND NON-CONFIDENTIAL MANAGEMENT, REPRESENTED BY CFPEA
4. UNIT 14, MANAGEMENT CONFIDENTIAL, REPRESENTED BY CFMEA

MEET AND CONFER REGARDING SALARY REALIGNMENTS IN ACCORDANCE WITH AN MOU PROVISION:

1. UNIT 01, NON-SUPERVISORY BLUE COLLAR, INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39

The above closed session items were laid over one week.

ADJOURNMENT

There being no further business to bring before the joint bodies, the hour of 5:34 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned to Wednesday, June 14, 2006, at 6:00 p.m. for continued consideration of the FY 2007 budget.

Approved on the _____20th_____ day of _____June_____, 2006.

_____/s/_____
 Jerry Duncan, Council President

ATTEST:_____/s/_____
 Yolanda Salazar, Assistant City Clerk

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